

Based on an independent review of the record, the court concludes that 1) plaintiff is a prevailing party, 2) the government's position was not substantially justified, and 3) the requested

amount is reasonable. Consequently, the court finds the plaintiff is entitled to an attorney's fee award under the EAJA in the amount of \$5,309.30 in attorney fees.

Further, if plaintiff's counsel is ultimately granted attorney fees pursuant to 42 U.S.C. §406(b)(1), she shall refund the smaller award to the plaintiff pursuant to Weakley v. Bowen, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 10th day of November, 2011.


James H. Payne
United States District Judge
Eastern District of Oklahoma